

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

**EBTH, Inc.,  
d/b/a Everything But the House**

**PLAINTIFF,**

**vs.**

**Tyler Fickel,  
d/b/a Everything But the Dog,**

**and**

**Ashley Fickel,  
d/b/a Everything But the Dog**

**DEFENDANTS.**

**Case No. 1:17-cv-38**

**Judge \_\_\_\_\_**

**COMPLAINT FOR TRADEMARK  
INFRINGEMENT**

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**JURY TRIAL DEMANDED**

**COMPLAINT**

For its Complaint against Tyler Fickel and Ashley Fickel, d/b/a Everything But the Dog, Plaintiff EBTH, Inc., d/b/a Everything But the House (“EBTH”) states as follows:

**NATURE OF THE ACTION**

1. This is a civil action for trademark infringement and unfair competition under federal, state, and common law. EBTH brings this action because Tyler Fickel and Ashley Fickel, d/b/a Everything But the Dog (“Defendants”) are unlawfully doing business under a confusingly similar name and are offering estate sale services under a confusingly similar trademark in violation of EBTH’s rights. EBTH seeks to enjoin Defendants’ acts, to recover damages and Defendants’ profits, and to secure other relief, including attorneys’ fees and costs.

### **THE PARTIES**

2. Plaintiff EBTH is a Delaware corporation having a principal place of business at 4650 Wilmer Avenue, Cincinnati, Ohio, 45226.

3. Upon information and belief, Defendants Tyler Fickel and Ashley Fickel are individuals residing at 5791 Andrew John Drive, New Albany, Ohio, 43054. Upon further information and belief, Defendants offer estate sale services and otherwise do business under the trade name, Everything But the Dog.

### **JURISDICTION AND VENUE**

4. This action arises under the federal Lanham Act, 15 U.S.C. §§ 1051, et seq., the Ohio Deceptive Trade Practices Act, O.R.C. §§ 4165.01 et seq., and under the common law of the State of Ohio.

5. This Court has jurisdiction over the subject matter of this action pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1338(a), 1338(b). Pursuant to 28 U.S.C. § 1367, this Court also has supplemental jurisdiction over EBTH's state-law claims because those claims are so related to EBTH's federal Lanham Act claims that they form part of the same case or controversy.

6. This Court has personal jurisdiction over Defendants. Defendants are residents of and domiciled in the State of Ohio, and their principal place of business is located in Ohio. Venue is proper in the Western Division of the Southern District of Ohio for multiple reasons. Pursuant to 28 U.S.C. § 1391(b)(1), venue is proper because Defendants reside in this District. In addition, pursuant to 28 U.S.C. § 1391(b)(2), venue is proper because a substantial part of the events giving rise to EBTH's claims occurred in this District. Specifically, among other things, Defendants' marketing and advertising reach into this District; their confusion of consumers

causes harm to EBTH in this District; the harm to EBTH's trademark rights and goodwill takes place in this District; Defendants operate an interactive website that establishes additional contact with residents of this District; EBTH's trademark rights originally arose from doing business in this District; and EBTH's application for trademark registration originated from this District. Further, if Defendants were considered to be an unincorporated entity, venue is proper with respect to that entity, because: (1) the entity is subject to this Court's personal jurisdiction with respect to this action, (*see* 28 U.S.C. § 1391(c)(2)), and (2) the entity has sufficient contacts with this district (*see* 28 U.S.C. § 1391(d)).

### **GENERAL ALLEGATIONS**

7. EBTH operates the nation's premier online personal property and estate sale action site. Started in 2008 as a local, Cincinnati business, EBTH currently boasts auctions in more than 27 cities across the country. In 2015, EBTH sold more than \$30 million worth of merchandise from its website located at <*ebth.com*>.

8. Since at least as early as 2008, and well prior to Defendants' use, EBTH has used the trademarks, EVERYTHING BUT THE HOUSE and EBTH in interstate commerce in connection with both online auction services as well as arranging, planning, and conducting estate liquidation sales for others.

9. In order to protect the substantial goodwill in its EVERYTHING BUT THE HOUSE and EBTH trademarks, EBTH owns federal registrations for EVERYTHING BUT THE HOUSE, Registration No. 4271567 for "*online auction services*," and EBTH, Registration No. 4306738, for "*online auction services*." In addition, EBTH owns pending, federal applications for EVERYTHING BUT THE HOUSE, Serial No. 87/239282, for "*arranging, planning, and conducting estate liquidation sales for others*," and EBTH, Serial No. 87/239276, for

*“arranging, planning, and conducting estate liquidation sales for others.”* Copies of the registration certificates and filing receipts, as applicable, along with status printouts for these marks taken from the U.S. Patent and Trademark Office’s Trademark Status Document Retrieval, are attached hereto as Exhibit A.

10. The existence of the valid and subsisting federal trademark registrations constitutes prima facie evidence of the ownership and validity of EBTH’s EVERYTHING BUT THE HOUSE and EBTH trademarks.

11. EBTH has used its EVERYTHING BUT THE HOUSE and EBTH trademarks continuously and without interruption since at least as early as 2008. To its knowledge, EBTH’s use of its EVERYTHING BUT THE HOUSE and EBTH trademarks has been exclusive during this time in relation to both *“online auction services”* and *“arranging, planning, and conducting estate liquidation sales for others”* (the “EBTH Services”), and no other entity has the right to use a mark similar to either EVERYTHING BUT THE HOUSE or EBTH for the EBTH Services or related services.

12. Through its continuous use of the EVERYTHING BUT THE HOUSE and EBTH trademarks over the last 8+ years, EBTH has built up substantial goodwill in its EVERYTHING BUT THE HOUSE and EBTH trademarks, and the relevant consumers have come to recognize EBTH as the source of high-quality online auction and estate liquidation services throughout the United States.

13. EBTH has advertised its services throughout the State of Ohio and the United States, including without limitation via its website located at *<ebth.com>* and through targeted email campaigns directed to its large network of registered users. EBTH has received unsolicited media coverage for its business from, without limitation, *Forbes*, *Fortune*, *AdWeek*, *The*

*Cincinnati Business Courier*, and a host of newspapers across the country. EBTH even has its own entry on Wikipedia, describing EBTH as “an online auction service that specializes in estate sales. EBTH catalogs, photographs and lists items online during estate sales and ships to buyers.”

14. Since its founding in 2008, EBTH has grown from 2 employees to over 500. This growth, coupled with EBTH’s unique business model, has seen EBTH’s popularity reach even beyond the borders of the United States, with EBTH’s auctions receiving bidding activity from 46 different countries.

15. Upon information and belief, Defendants are the proprietors of Everything But the Dog, an estate sale company located in Columbus, Ohio. On their website located at [<everythingbtd.com>](http://everythingbtd.com), Defendants tout themselves as “the premier estate sale company in Central Ohio.” Defendants directly compete with EBTH for estate sale business and estate sale referrals within the State of Ohio.

16. Upon information and belief, Defendants started doing business no earlier than 30 March 2016 and did not offer estate sale services of any kind, under any name, prior to that time.

17. Upon information and belief, Defendants use the trademarks EVERYTHING BUT THE DOG and EBTD in connection with their business described above. Specifically, and without limitation, Defendants refer to themselves as both EVERYTHING BUT THE DOG and EBTD, interchangeably, an example of which is clipped from Defendants’ homepage below:



18. Defendants' use of EVERYTHING BUT THE DOG and EBTD mimic EBTH's use of its own trademarks where the acronym is used interchangeably with the full name of the business, as shown in the example clipped from EBTH's homepage, below:



19. Much like EBTH's mark is meant to connote that consumers can, through the use of EBTH's services, purchase just about any item imaginable, Defendants' marks are meant to connote that consumers can, through the use of Defendants' services, purchase any item within an estate save the family dog.

20. Upon information and belief, Defendants advertise their services, at minimum, online at the domain *<everythingbtd.com>*.

21. Upon information and belief, Defendants intentionally selected the names, EVERYTHING BUT THE DOG and EBTD solely to capitalize on the renown, goodwill, and success of EBTH in a conscious attempt to misappropriate the foregoing for their own, personal benefit.

22. On 4 November 2016, EBTH sent a letter to Defendants demanding that they cease and desist all further use of the EVERYTHING BUT THE DOG and EBTD trademarks in connection with Defendants' business.

23. Having received no response, EBTH re-issued its letter on 29 November 2016. To date, Defendants have failed to respond to EBTH's demands.

24. As of the date of this Complaint, Defendants continues to use its EVERYTHING BUT THE DOG and EBTD trademarks in connection with estate sale services.

25. Defendants' EVERYTHING BUT THE DOG and EBTD trademarks are confusingly similar to EBTH's EVERYTHING BUT THE HOUSE and EBTH trademarks, respectively.

26. EBTH and Defendants use their respective marks in connection with similar and/or related services, in the same channels of trade, and offer their services to the same categories of consumers.

27. By using trademarks which are confusingly similar to EBTH's EVERYTHING BUT THE HOUSE and EBTH trademarks, Defendants are misrepresenting and falsely describing to the general public the origin and source of their estate sale services offered under the infringing EVERYTHING BUT THE DOG and EBTD trademarks in the United States and creating a likelihood of confusion as to the source and sponsorship of such services.

28. As a result, Defendants' use of its EVERYTHING BUT THE DOG and EBTD trademarks is likely to cause confusion, mistake, and deception as to the source or origin of Defendants' services on the one hand, and EBTH's services on the other, and is likely to falsely suggest a sponsorship, connection, affiliation, or association between Defendants and/or their services on the one hand, and EBTH on the other, thereby injuring EBTH and the public.

29. Defendants' activities described above have directly and proximately caused, and unless enjoined will continue to cause, irreparable harm both to EBTH and consumers, both of whom have an interest in being free from confusion, mistake, and deception.

30. As a direct and proximate result of the foregoing acts of Defendants, EBTH has suffered and, unless enjoined, will continue to suffer monetary damages in an amount that will be established at trial.

31. EBTH has no adequate remedy at law.

**COUNT ONE**

**Federal Trademark Infringement Under  
Section 32(1)(a) of the Lanham Act, 15 U.S.C. § 1114(1)**

32. EBTH repeats and re-alleges each and every allegation set forth in Paragraphs 1 through 31 of this Complaint.

33. Defendants use of the EVERYTHING BUT THE DOG mark in connection with the sale, offering for sale, distribution and advertising of its estate sale services, is likely to cause confusion, or to cause mistake, or to deceive in violation of Section 32(1)(a) of the Lanham Act, 15 U.S.C. § 1114(1).

34. Upon information and belief, Defendants acted consciously and in willful disregard of EBTH's rights, and the resulting damage to EBTH is such as to warrant the trebling of damages in order to provide just compensation.

35. Defendants' use of the EBTD mark in connection with the sale, offering for sale, distribution and advertising of its estate sale services, is likely to cause confusion, or to cause mistake, or to deceive in violation of Section 32(1)(a) of the Lanham Act, 15 U.S.C. § 1114(1).

36. Upon information and belief, Defendants acted consciously and in willful disregard of EBTH's rights, and the resulting damage to EBTH is such as to warrant the trebling of damages in order to provide just compensation.



**COUNT TWO**

**Federal Trademark Infringement, False Designation of Origin,  
Passing Off, and Unfair Competition  
under Section 43(a)(1)(A) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A)**

37. EBTH repeats and realleges each and every allegation set forth in Paragraphs 1 through 36 of this Complaint.

38. Defendants' use in commerce of marks, words, terms, names, and false designations of origin (EVERYTHING BUT THE DOG and EBTD) and a domain name (<everythingbtd.com>), in connection with its commercial activities, is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Defendants with EBTH or as to the origin, sponsorship, or approval of Defendants, their estate sale services, and their commercial activities, by or with EBTH, in violation of Section 43(a)(1)(A) of the Lanham Act, 15 U.S.C. § 1125 (a)(1)(A).

**COUNT THREE**

**Violation of the Ohio Deceptive Trade Practices Act, O.R.C. § 4165.01 et seq.**

39. EBTH repeats and realleges each and every allegation set forth in Paragraphs 1 through 38 of this Complaint.

40. Defendants' use of the EVERYTHING BUT THE DOG trademark on or in connection with its estate sale services is likely to cause confusion or misunderstanding as to the source, sponsorship, or approval of their services, is likely to cause confusion or misunderstanding as to the affiliation, connection, or association with EBTH, and constitutes a representation that Defendants' services have sponsorship, approval, or characteristics which they do not have, all in violation of O.R.C. § 4165.01 et seq.

41. Defendants' use of the EBTD trademark on or in connection with its estate sale services is likely to cause confusion or misunderstanding as to the source, sponsorship, or approval of their services, is likely to cause confusion or misunderstanding as to the affiliation, connection, or association with EBTH, and constitutes a representation that Defendants' services have sponsorship, approval, or characteristics which they do not have, all in violation of O.R.C. § 4165.01 et seq.

#### **COUNT FOUR**

##### **Common Law Trademark Infringement and Unfair Competition**

42. EBTH repeats and realleges each and every allegation set forth in Paragraphs 1 through 41 of this Complaint.

43. Defendants' activities described above constitute common law trademark infringement and misappropriation of the goodwill associated with EBTH's EVERYTHING BUT THE HOUSE trademark and constitutes unfair competition in violation of Ohio common law.

44. Defendants' activities described above constitute common law trademark infringement and misappropriation of the goodwill associated with EBTH's EBTH trademark and constitutes unfair competition in violation of Ohio common law.

#### **REQUEST FOR RELIEF**

Wherefore, EBTH respectfully requests that this Court enter judgment in its favor on each and every count set forth above and award it relief including, but not limited to, the following:

a. An Order holding that Defendants' actions described above infringe EBTH's EVERYTHING BUT THE HOUSE and EBTH trademarks, and that Defendants' actions

constitute trademark infringement, false designation of origin, passing off, unfair competition, and a deceptive trade practice under federal, state, and common law as detailed above;

b. An Order preliminarily and permanently enjoining Defendants, their employees, agents, officers, directors, shareholders, subsidiaries, related companies, affiliates, distributors, dealers, and all persons in active concert or participation with any of them:

- 1) From using EVERYTHING BUT THE DOG, EBTD or any other trademarks, trade names, logos, and other names or identifiers that are the same as or confusingly similar to the EVERYTHING BUT THE HOUSE and/or EBTH, in any manner or form, in connection with any goods or services;
- 2) From representing or suggesting, by any means whatsoever, directly or indirectly, that Defendants, any goods or services offered by Defendants, or any activities undertaken by Defendants, are sponsored or approved by, or are associated, affiliated, or connected with EBTH in any way.

c. An Order requiring Defendants to deliver up for destruction all advertisements, promotional materials, labels, signs, pictures, letterhead, plaques, and any other materials containing infringing marks and/or false claims in their possession, custody, or control, or in the possession, custody, or control of any of their agents or representatives;

d. An Order requiring Defendants to disable the website located at *<everythingbtd.com>* and requiring Defendants to transfer the *<everythingbtd.com>* domain to EBTH;

e. An Order directing Defendants to file with this Court and serve on EBTH's attorneys, thirty (30) days after the date of entry of any injunction, a report in writing and under

oath setting forth in detail the manner and form in which it has complied with the Court's injunctions;

f. An Order requiring Defendants to account for and pay to EBTH any and all profits arising from or related to Defendants' unlawful acts and that such profits be increased in accordance with 15 U.S.C § 1117 and other applicable laws;

g. An Order requiring Defendants to pay EBTH the full amount of damages caused by Defendants' unlawful acts, and that such damages be trebled in accordance with 15 U.S.C. § 1117 and other applicable laws;

h. An Order requiring Defendants to pay EBTH its costs and attorneys' fees in this action pursuant to 15 U.S.C. § 1117 and other applicable laws; and

i. Any other relief as the Court may deem appropriate.

**JURY DEMAND**

EBTH hereby demands a jury trial on all of its claims.

Respectfully submitted,

/s/ Thomas F. Hankinson

Thomas F. Hankinson (0088367)

J. Michael Hurst (0070828)

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*Attorneys for EBTH, Inc.,  
d/b/a Everything But the House*

Dated: 13 January 2017

# **EXHIBIT A**

Generated on: This page was generated by TSDR on 2017-01-13 16:16:00 EST

Mark: EVERYTHING BUT THE HOUSE

EVERYTHING BUT THE HOUSE

US Serial Number: 85625219

Application Filing Date: May 15, 2012

US Registration Number: 4271567

Registration Date: Jan. 08, 2013

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Service Mark

TM5 Common Status Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Jan. 08, 2013

Publication Date: Oct. 23, 2012

## Mark Information

Mark Literal Elements: EVERYTHING BUT THE HOUSE

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

## Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

For: On-line auction services

International Class(es): 035 - Primary Class

U.S Class(es): 100, 101, 102

Class Status: ACTIVE

Basis: 1(a)

First Use: Aug. 01, 2006

Use in Commerce: Aug. 01, 2006

## Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Amended Use: No

Filed ITU: No

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

## Current Owner(s) Information

Owner Name: EBTH HOLDINGS LLC

Owner Address: 4650 WILMER AVENUE  
CINCINNATI, OHIO UNITED STATES 45226

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country DELAWARE  
Where Organized:

## Attorney/Correspondence Information

### Attorney of Record

Attorney Name: Cheryl S. Scotney

Docket Number: AS7015TM0001

Attorney Primary [trademarks@kmklaw.com](mailto:trademarks@kmklaw.com)  
Email Address:Attorney Email No  
Authorized:

### Correspondent

Correspondent Name/Address: CHERYL S. SCOTNEY  
KEATING MUETHING & KLEKAMP PLL  
1 E 4TH ST STE 1400  
CINCINNATI, OHIO UNITED STATES 45202-3752

Phone: 513-579-6942

Fax: 513-579-6457

Correspondent e-mail: [trademarks@kmklaw.com](mailto:trademarks@kmklaw.com) [cscotney@kmklaw.com](mailto:cscotney@kmklaw.com)

Correspondent e-mail Authorized: Yes

### Domestic Representative - Not Found

## Prosecution History

Date	Description	Proceeding Number
May 20, 2015	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Feb. 05, 2014	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Jan. 08, 2013	REGISTERED-PRINCIPAL REGISTER	
Oct. 23, 2012	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Oct. 23, 2012	PUBLISHED FOR OPPOSITION	
Oct. 03, 2012	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Sep. 10, 2012	APPROVED FOR PUB - PRINCIPAL REGISTER	
Sep. 06, 2012	ASSIGNED TO EXAMINER	82091
May 18, 2012	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
May 18, 2012	NEW APPLICATION ENTERED IN TRAM	

## TM Staff and Location Information

### TM Staff Information - None

#### File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Jan. 08, 2013

## Assignment Abstract Of Title Information

### Summary

Total Assignments: 2

Registrant: Everything But the House LLC

### Assignment 1 of 2

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [5196/0256](#)

Pages: 9

Date Recorded: Jan. 17, 2014

Supporting Documents: [assignment-tm-5196-0256.pdf](#)

### Assignor

Name: [EVERYTHING BUT THE HOUSE LLC](#)

Execution Date: Jan. 01, 2014

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country No Place Where Organized Found  
Where Organized:

### Assignee

Name: [EBTH HOLDINGS LLC](#)

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: DELAWARE

Address: 4650 WILMER AVENUE  
CINCINNATI, OHIO 45226

**Correspondent**

Correspondent Name: J. MICHAEL HURST

Correspondent Address: ONE EAST FOURTH STREET, SUITE 1400  
CINCINNATI, OH 45202

**Domestic Representative - Not Found**

**Assignment 2 of 2**

Conveyance: CONVERSION

Reel/Frame: [5512/0745](#)

Pages: 5

Date Recorded: May 08, 2015

Supporting Documents: [assignment-tm-5512-0745.pdf](#)

**Assignor**

Name: [EBTH HOLDINGS LLC](#)

Execution Date: Nov. 19, 2014

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: DELAWARE

**Assignee**

Name: [EBTH INC.](#)

Legal Entity Type: CORPORATION

State or Country Where Organized: DELAWARE

Address: 4650 WILMER AVENUE  
CINCINNATI, OHIO 45226

**Correspondent**

Correspondent Name: J. MICHAEL HURST

Correspondent Address: ONE EAST FOURTH STREET, SUITE 1400  
CINCINNATI, OH 45202

**Domestic Representative - Not Found**



# United States of America

United States Patent and Trademark Office

## EVERYTHING BUT THE HOUSE

**Reg. No. 4,271,567**

**Registered Jan. 8, 2013**

**Int. Cl.: 35**

**SERVICE MARK**

**PRINCIPAL REGISTER**

EVERYTHING BUT THE HOUSE LLC (DELAWARE LIMITED LIABILITY COMPANY)  
5152 KIELEY PLACE  
CINCINNATI, OH 45217

FOR: ON-LINE AUCTION SERVICES, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 8-1-2006; IN COMMERCE 8-1-2006.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 85-625,219, FILED 5-15-2012.

JUSTINE D. PARKER, EXAMINING ATTORNEY



*David J. Kyros*

Director of the United States Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL  
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE  
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***

**What and When to File:**

**First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

**Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.\*  
*See* 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or reminder of these filing requirements.**

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.**

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Mark: EBTH

EBTH

US Serial Number: 85625222

Application Filing Date: May 15, 2012

US Registration Number: 4306738

Registration Date: Mar. 19, 2013

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Service Mark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Mar. 19, 2013

Publication Date: Oct. 16, 2012

Notice of Allowance Date: Dec. 11, 2012

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## Mark Information

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Mark Literal Elements: EBTH

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

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## Goods and Services

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**Note:** The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*.\* identify additional (new) wording in the goods/services.

For: On-line auction services

International Class(es): 035 - Primary Class

U.S Class(es): 100, 101, 102

Class Status: ACTIVE

Basis: 1(a)

First Use: Oct. 08, 2012

Use in Commerce: Oct. 08, 2012

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## Basis Information (Case Level)

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Filed Use: No

Currently Use: Yes

Amended Use: No

Filed ITU: Yes

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

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## Current Owner(s) Information

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Owner Name: EBTH HOLDINGS LLC

Owner Address: 4650 WILMER AVENUE  
CINCINNATI, OHIO 45226  
UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country: DELAWARE  
Where Organized:

## Attorney/Correspondence Information

### Attorney of Record

Attorney Name: Cheryl S. Scotney

Docket Number: AS7015TM0001

Attorney Primary Email Address: [trademarks@kmklaw.com](mailto:trademarks@kmklaw.com)

Attorney Email Authorized: No

### Correspondent

Correspondent Name/Address: CHERYL S. SCOTNEY  
KEATING MUETHING & KLEKAMP PLL  
1 E 4TH ST STE 1400  
CINCINNATI, OHIO 45202-3752  
UNITED STATES

Phone: 513-579-6942

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Correspondent e-mail: [trademarks@kmklaw.com](mailto:trademarks@kmklaw.com) [cscotney@kmklaw.com](mailto:cscotney@kmklaw.com)

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

## Prosecution History

Date	Description	Proceeding Number
May 20, 2015	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Feb. 05, 2014	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Mar. 19, 2013	REGISTERED-PRINCIPAL REGISTER	
Feb. 14, 2013	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
Feb. 13, 2013	LAW OFFICE REGISTRATION REVIEW COMPLETED	68123
Feb. 11, 2013	ASSIGNED TO LIE	68123
Jan. 31, 2013	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Jan. 10, 2013	STATEMENT OF USE PROCESSING COMPLETE	71034
Dec. 13, 2012	USE AMENDMENT FILED	71034
Jan. 09, 2013	CASE ASSIGNED TO INTENT TO USE PARALEGAL	71034
Dec. 13, 2012	TEAS STATEMENT OF USE RECEIVED	
Dec. 11, 2012	NOA E-MAILED - SOU REQUIRED FROM APPLICANT	
Oct. 16, 2012	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Oct. 16, 2012	PUBLISHED FOR OPPOSITION	
Sep. 26, 2012	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Sep. 07, 2012	APPROVED FOR PUB - PRINCIPAL REGISTER	
Sep. 06, 2012	ASSIGNED TO EXAMINER	82091
May 22, 2012	NOTICE OF PSEUDO MARK MAILED	
May 18, 2012	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
May 18, 2012	NEW APPLICATION ENTERED IN TRAM	

## TM Staff and Location Information

### TM Staff Information - None

#### File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Feb. 13, 2013

## Assignment Abstract Of Title Information

### Summary

Total Assignments: 2

Registrant: Everything But the House LLC

### Assignment 1 of 2

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [5196/0256](#)

Pages: 9

Date Recorded: Jan. 17, 2014

Supporting Documents: [assignment-tm-5196-0256.pdf](#)**Assignor**Name: [EVERYTHING BUT THE HOUSE LLC](#)

Execution Date: Jan. 01, 2014

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: No Place Where Organized Found

**Assignee**Name: [EBTH HOLDINGS LLC](#)

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: DELAWARE

Address: 4650 WILMER AVENUE  
CINCINNATI, OHIO 45226**Correspondent**

Correspondent Name: J. MICHAEL HURST

Correspondent Address: ONE EAST FOURTH STREET, SUITE 1400  
CINCINNATI, OH 45202**Domestic Representative - Not Found****Assignment 2 of 2**

Conveyance: CONVERSION

Reel/Frame: [5512/0745](#)

Pages: 5

Date Recorded: May 08, 2015

Supporting Documents: [assignment-tm-5512-0745.pdf](#)**Assignor**Name: [EBTH HOLDINGS LLC](#)

Execution Date: Nov. 19, 2014

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: DELAWARE

**Assignee**Name: [EBTH INC.](#)

Legal Entity Type: CORPORATION

State or Country Where Organized: DELAWARE

Address: 4650 WILMER AVENUE  
CINCINNATI, OHIO 45226**Correspondent**

Correspondent Name: J. MICHAEL HURST

Correspondent Address: ONE EAST FOURTH STREET, SUITE 1400  
CINCINNATI, OH 45202**Domestic Representative - Not Found**

**United States of America**  
United States Patent and Trademark Office

**EBTH**

**Reg. No. 4,306,738**

**Registered Mar. 19, 2013**

**Int. Cl.: 35**

**SERVICE MARK**

**PRINCIPAL REGISTER**

EVERYTHING BUT THE HOUSE LLC (DELAWARE LIMITED LIABILITY COMPANY)  
5152 KIELEY PLACE  
CINCINNATI, OH 45217

FOR: ON-LINE AUCTION SERVICES, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 10-8-2012; IN COMMERCE 10-8-2012.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 85-625,222, FILED 5-15-2012.

JUSTINE D. PARKER, EXAMINING ATTORNEY



*Lea Street Lee*

Acting Director of the United States Patent and Trademark Office



**REQUIREMENTS TO MAINTAIN YOUR FEDERAL  
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE  
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***

**What and When to File:**

**First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

**Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.\*  
*See* 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or reminder of these filing requirements.**

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.**

Generated on: This page was generated by TSDR on 2017-01-13 16:14:00 EST

Mark: EVERYTHING BUT THE HOUSE

EVERYTHING BUT THE HOUSE

US Serial Number: 87239282

Application Filing Date: Nov. 16, 2016

Filed as TEAS RF: Yes

Currently TEAS RF: Yes

Register: Principal

Mark Type: Service Mark

Status: New application will be assigned to an examining attorney approximately 3 months after filing date.

Status Date: Nov. 22, 2016

---

## Mark Information

---

Mark Literal Elements: EVERYTHING BUT THE HOUSE

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

---

## Related Properties Information

---

Claimed Ownership of US Registrations: 4271567

---

## Goods and Services

---

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*.\* identify additional (new) wording in the goods/services.

For: Arranging, planning, and conducting estate liquidation sales for others

International Class(es): 035 - Primary Class

U.S Class(es): 100, 101, 102

Class Status: ACTIVE

Basis: 1(a)

First Use: Oct. 08, 2012

Use in Commerce: Oct. 08, 2012

---

## Basis Information (Case Level)

---

Filed Use: Yes

Currently Use: Yes

Amended Use: No

Filed ITU: No

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

---

## Current Owner(s) Information

---

Owner Name: EBTH, Inc.

Owner Address: 4650 Wilmer Avenue  
Cincinnati, OHIO 45226



UNITED STATES

Legal Entity Type: CORPORATION

State or Country: DELAWARE  
Where Organized:

---

**Attorney/Correspondence Information**

---

**Attorney of Record**

Attorney Name: J. Michael Hurst

Docket Number: EB7000TM0001

Attorney Primary [mhurst@kmklaw.com](mailto:mhurst@kmklaw.com)

Attorney Email: Yes

Email Address:

Authorized:

**Correspondent**

Correspondent Name/Address: J. MICHAEL HURST

KEATING MUETHING & KLEKAMP PLL  
ONE EAST FOURTH STREET, SUITE 1400  
CINCINNATI, OHIO 45202  
UNITED STATES

Phone: 513-562-1401

Fax: 513-579-6457

Correspondent e-mail: [mhurst@kmklaw.com](mailto:mhurst@kmklaw.com)

Correspondent e-mail Authorized: Yes

**Domestic Representative - Not Found**

---

**Prosecution History**

---

Date	Description	Proceeding Number
Nov. 22, 2016	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Nov. 19, 2016	NEW APPLICATION ENTERED IN TRAM	

---

**TM Staff and Location Information**

---

**TM Staff Information - None****File Location**

Current Location: NEW APPLICATION PROCESSING

Date in Location: Nov. 22, 2016

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTO Form 1478 (Rev 09/2006)

OMB No. 0651-0009 (Exp 02/28/2018)

## Trademark/Service Mark Application, Principal Register

Serial Number: 87239282

Filing Date: 11/16/2016

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	87239282
<b>MARK INFORMATION</b>	
*MARK	<a href="#">EVERYTHING BUT THE HOUSE</a>
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	EVERYTHING BUT THE HOUSE
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	EBTH, Inc.
*STREET	4650 Wilmer Avenue
*CITY	Cincinnati
*STATE (Required for U.S. applicants)	Ohio
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants)	45226
<b>LEGAL ENTITY INFORMATION</b>	
TYPE	corporation
STATE/COUNTRY OF INCORPORATION	Delaware
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
INTERNATIONAL CLASS	035
*IDENTIFICATION	Arranging, planning, and conducting estate liquidation sales for others
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 10/08/2012
FIRST USE IN COMMERCE DATE	At least as early as 10/08/2012
SPECIMEN FILE NAME(S)	<a href="#">\\TICRS\EXPORT17\IMAGEOUT17\872\392\87239282\xml1\RFA0003.JPG</a>
SPECIMEN DESCRIPTION	screen capture from Applicant's website
<b>ADDITIONAL STATEMENTS SECTION</b>	

ACTIVE PRIOR REGISTRATION(S)	The applicant claims ownership of active prior U.S. Registration Number(s) 4271567.
<b>ATTORNEY INFORMATION</b>	
NAME	J. Michael Hurst
ATTORNEY DOCKET NUMBER	EB7000TM0001
FIRM NAME	Keating Muething & Klekamp PLL
STREET	One East Fourth Street, Suite 1400
CITY	Cincinnati
STATE	Ohio
COUNTRY	United States
ZIP/POSTAL CODE	45202
PHONE	513-562-1401
FAX	513-579-6457
EMAIL ADDRESS	mhurst@kmlaw.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	J. Michael Hurst, Alison J. Stimac, Mark E. Musekamp, and Keating Muething & Klekamp PLL
<b>CORRESPONDENCE INFORMATION</b>	
NAME	J. Michael Hurst
FIRM NAME	Keating Muething & Klekamp PLL
STREET	One East Fourth Street, Suite 1400
CITY	Cincinnati
STATE	Ohio
COUNTRY	United States
ZIP/POSTAL CODE	45202
PHONE	513-562-1401
FAX	513-579-6457
*EMAIL ADDRESS	mhurst@kmlaw.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>FEE INFORMATION</b>	
APPLICATION FILING OPTION	TEAS RF
NUMBER OF CLASSES	1
FEE PER CLASS	275
*TOTAL FEE DUE	275
*TOTAL FEE PAID	275
<b>SIGNATURE INFORMATION</b>	
SIGNATURE	/j. michael hurst/
SIGNATORY'S NAME	J. Michael Hurst

<b>SIGNATORY'S POSITION</b>	Attorney for Applicant
<b>DATE SIGNED</b>	11/16/2016

---

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PTO Form 1478 (Rev 09/2006)

OMB No. 0651-0009 (Exp 02/28/2018)

## Trademark/Service Mark Application, Principal Register

**Serial Number: 87239282**

**Filing Date: 11/16/2016**

### To the Commissioner for Trademarks:

**MARK:** EVERYTHING BUT THE HOUSE (Standard Characters, see [mark](#))

The literal element of the mark consists of EVERYTHING BUT THE HOUSE.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, EBTH, Inc., a corporation of Delaware, having an address of

4650 Wilmer Avenue  
Cincinnati, Ohio 45226  
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 035: Arranging, planning, and conducting estate liquidation sales for others

In International Class 035, the mark was first used by the applicant or the applicant's related company or licensee or predecessor in interest at least as early as 10/08/2012, and first used in commerce at least as early as 10/08/2012, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, consisting of a(n) screen capture from Applicant's website.

[Specimen File1](#)

### Claim of Active Prior Registration(s)

The applicant claims ownership of active prior U.S. Registration Number(s) 4271567.

The applicant's current Attorney Information:

J. Michael Hurst and J. Michael Hurst, Alison J. Stimac, Mark E. Musekamp, and Keating Muething & Klekamp PLL of Keating Muething & Klekamp PLL One East Fourth Street, Suite 1400  
Cincinnati, Ohio 45202  
United States  
513-562-1401(phone)  
513-579-6457(fax)  
mhurst@kmlaw.com (authorized)

The attorney docket/reference number is EB7000TM0001.

The applicant's current Correspondence Information:

J. Michael Hurst  
Keating Muething & Klekamp PLL  
One East Fourth Street, Suite 1400  
Cincinnati, Ohio 45202  
513-562-1401(phone)  
513-579-6457(fax)  
mhurst@kmlaw.com (authorized)

**E-mail Authorization:** I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or applicant's attorney at the e-mail address provided above. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in an additional processing fee of \$50 per international class of goods/services.

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

### **Declaration**

The signatory believes that: if the applicant is filing the application under 15 U.S.C. § 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant is using the mark in commerce on or in connection with the goods/services in the application; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

### **Declaration Signature**

Signature: /j. michael hurst/ Date: 11/16/2016

Signatory's Name: J. Michael Hurst

Signatory's Position: Attorney for Applicant

RAM Sale Number: 87239282

RAM Accounting Date: 11/17/2016

Serial Number: 87239282

Internet Transmission Date: Wed Nov 16 17:12:47 EST 2016

TEAS Stamp: USPTO/BAS-XXX.XXX.XX.X-20161116171247145

838-87239282-570b3c5ec69069f4ddf4452c489

62ccf269bf4161e349b216498871927c03891f8-

CC-3679-20161116171003479044

# EVERYTHING BUT THE HOUSE

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## Online Estate Sales Made Simple and Profitable

Let EBTH manage your estate sale auction online.

EBTH is the only online estate sale company that combines high-touch customer service with the reach of an e-commerce site. Our full service model— photography, cataloging, payment and delivery – makes the entire process of planning and managing an estate sale easy and seamless. From mid-century furniture, to original art, cars, collectibles, vintage bags, and everyday housewares, we sell it all.

EBTH: How It Works





Generated on: This page was generated by TSDR on 2017-01-13 16:12:40 EST

Mark: EBTH

EBTH

US Serial Number: 87239276

Application Filing Date: Nov. 16, 2016

Filed as TEAS RF: Yes

Currently TEAS RF: Yes

Register: Principal

Mark Type: Service Mark

Status: New application will be assigned to an examining attorney approximately 3 months after filing date.

Status Date: Nov. 22, 2016

---

## Mark Information

---

Mark Literal Elements: EBTH

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

---

## Related Properties Information

---

Claimed Ownership of US Registrations: 4306738

---

## Goods and Services

---

**Note:** The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

For: Arranging, planning, and conducting estate liquidation sales for others

International Class(es): 035 - Primary Class

U.S Class(es): 100, 101, 102

Class Status: ACTIVE

Basis: 1(a)

First Use: Oct. 08, 2012

Use in Commerce: Oct. 08, 2012

---

## Basis Information (Case Level)

---

Filed Use: Yes

Currently Use: Yes

Amended Use: No

Filed ITU: No

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

---

## Current Owner(s) Information

---

Owner Name: EBTH, Inc.

Owner Address: 4650 Wilmer Avenue  
Cincinnati, OHIO 45226

UNITED STATES

Legal Entity Type: CORPORATION

State or Country: DELAWARE  
Where Organized:

---

**Attorney/Correspondence Information**

---

**Attorney of Record**

Attorney Name: J. Michael Hurst

Docket Number: EB7000TM0001

Attorney Primary Email Address: [mhurst@kmklaw.com](mailto:mhurst@kmklaw.com)

Attorney Email Authorized: Yes

**Correspondent**Correspondent Name/Address: J. MICHAEL HURST  
KEATING MUETHING & KLEKAMP PLL  
ONE EAST FOURTH STREET, SUITE 1400  
CINCINNATI, OHIO 45202  
UNITED STATES

Phone: 513-562-1401

Fax: 513-579-6457

Correspondent e-mail: [mhurst@kmklaw.com](mailto:mhurst@kmklaw.com)

Correspondent e-mail Authorized: Yes

**Domestic Representative - Not Found**

---

**Prosecution History**

---

Date	Description	Proceeding Number
Nov. 22, 2016	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Nov. 19, 2016	NEW APPLICATION ENTERED IN TRAM	

---

**TM Staff and Location Information**

---

**TM Staff Information - None****File Location**

Current Location: NEW APPLICATION PROCESSING

Date in Location: Nov. 22, 2016

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PTO Form 1478 (Rev 09/2006)

OMB No. 0651-0009 (Exp 02/28/2018)

## Trademark/Service Mark Application, Principal Register

Serial Number: 87239276

Filing Date: 11/16/2016

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	87239276
<b>MARK INFORMATION</b>	
*MARK	<a href="#">EBTH</a>
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	EBTH
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	EBTH, Inc.
*STREET	4650 Wilmer Avenue
*CITY	Cincinnati
*STATE (Required for U.S. applicants)	Ohio
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants)	45226
<b>LEGAL ENTITY INFORMATION</b>	
TYPE	corporation
STATE/COUNTRY OF INCORPORATION	Delaware
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
INTERNATIONAL CLASS	035
*IDENTIFICATION	Arranging, planning, and conducting estate liquidation sales for others
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 10/08/2012
FIRST USE IN COMMERCE DATE	At least as early as 10/08/2012
SPECIMEN FILE NAME(S)	<a href="#">\\TICRS\EXPORT17\IMAGEOUT17\872\392\87239276.xml1\ RFA0003.JPG</a>
SPECIMEN DESCRIPTION	screen capture from Applicant's website
<b>ADDITIONAL STATEMENTS SECTION</b>	

ACTIVE PRIOR REGISTRATION(S)	The applicant claims ownership of active prior U.S. Registration Number(s) 4306738.
<b>ATTORNEY INFORMATION</b>	
NAME	J. Michael Hurst
ATTORNEY DOCKET NUMBER	EB7000TM0001
FIRM NAME	Keating Muething & Klekamp PLL
STREET	One East Fourth Street, Suite 1400
CITY	Cincinnati
STATE	Ohio
COUNTRY	United States
ZIP/POSTAL CODE	45202
PHONE	513-562-1401
FAX	513-579-6457
EMAIL ADDRESS	mhurst@kmklaw.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	J. Michael Hurst, Alison J. Stimac, Mark E. Musekamp, and Keating Muething & Klekamp PLL
<b>CORRESPONDENCE INFORMATION</b>	
NAME	J. Michael Hurst
FIRM NAME	Keating Muething & Klekamp PLL
STREET	One East Fourth Street, Suite 1400
CITY	Cincinnati
STATE	Ohio
COUNTRY	United States
ZIP/POSTAL CODE	45202
PHONE	513-562-1401
FAX	513-579-6457
*EMAIL ADDRESS	mhurst@kmklaw.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>FEE INFORMATION</b>	
APPLICATION FILING OPTION	TEAS RF
NUMBER OF CLASSES	1
FEE PER CLASS	275
*TOTAL FEE DUE	275
*TOTAL FEE PAID	275
<b>SIGNATURE INFORMATION</b>	
SIGNATURE	/j. michael hurst/
SIGNATORY'S NAME	J. Michael Hurst

<b>SIGNATORY'S POSITION</b>	Attorney for Applicant
<b>DATE SIGNED</b>	11/16/2016

---

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTO Form 1478 (Rev 09/2006)

OMB No. 0651-0009 (Exp 02/28/2018)

## Trademark/Service Mark Application, Principal Register

**Serial Number: 87239276**

**Filing Date: 11/16/2016**

### To the Commissioner for Trademarks:

**MARK:** EBTH (Standard Characters, see [mark](#))

The literal element of the mark consists of EBTH.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, EBTH, Inc., a corporation of Delaware, having an address of

4650 Wilmer Avenue  
Cincinnati, Ohio 45226  
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 035: Arranging, planning, and conducting estate liquidation sales for others

In International Class 035, the mark was first used by the applicant or the applicant's related company or licensee or predecessor in interest at least as early as 10/08/2012, and first used in commerce at least as early as 10/08/2012, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, consisting of a(n) screen capture from Applicant's website.

[Specimen File1](#)

### Claim of Active Prior Registration(s)

The applicant claims ownership of active prior U.S. Registration Number(s) 4306738.

The applicant's current Attorney Information:

J. Michael Hurst and J. Michael Hurst, Alison J. Stimac, Mark E. Musekamp, and Keating Muething & Klekamp PLL of Keating Muething & Klekamp PLL One East Fourth Street, Suite 1400  
Cincinnati, Ohio 45202  
United States  
513-562-1401(phone)  
513-579-6457(fax)  
mhurst@kmlaw.com (authorized)

The attorney docket/reference number is EB7000TM0001.

The applicant's current Correspondence Information:

J. Michael Hurst  
Keating Muething & Klekamp PLL  
One East Fourth Street, Suite 1400  
Cincinnati, Ohio 45202  
513-562-1401(phone)  
513-579-6457(fax)  
mhurst@kmlaw.com (authorized)

**E-mail Authorization:** I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or applicant's attorney at the e-mail address provided above. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in an additional processing fee of \$50 per international class of goods/services.

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

### **Declaration**

The signatory believes that: if the applicant is filing the application under 15 U.S.C. § 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant is using the mark in commerce on or in connection with the goods/services in the application; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

### **Declaration Signature**

Signature: /j. michael hurst/ Date: 11/16/2016

Signatory's Name: J. Michael Hurst

Signatory's Position: Attorney for Applicant

RAM Sale Number: 87239276

RAM Accounting Date: 11/17/2016

Serial Number: 87239276

Internet Transmission Date: Wed Nov 16 17:09:16 EST 2016

TEAS Stamp: USPTO/BAS-XXX.XXX.XX.X-20161116170916433

230-87239276-570231633e446f097de14e9e430

984647228cdd83488915f967855ba8b97d687b9-

CC-3607-20161116170548929600

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